

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 8

STEINGASS MECHANICAL CONTRACTING, INC.

Employer

and Case Nos. 8-RC-16759 8-CA-36199 8-CA-36285

**PLUMBERS AND PIPEFITTERS LOCAL 219, A/W UNITED
ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE
PLUMBING AND PIPEFITTING INDUSTRY OF THE UNITED
STATES AND CANADA**

Petitioner

ORDER DIRECTING HEARING ON

OBJECTIONS, ORDER CONSOLIDATING CASES AND NOTICE OF HEARING

Pursuant to Section 102.69 of the Board's Rules and Regulations, an investigation of the Objections has been conducted. Based upon this investigation, I hereby make the following conclusions:

I order that those portions of Objection Nos. 2, 6 and 20, as set forth in more detail *infra.*, as well as Objection No. 8 be resolved at a hearing. Since those objections are factually coextensive with allegations in related unfair labor practice cases, I further order that such hearing be consolidated with the unfair labor practice hearing in Case Nos. 8-CA-36199 and 8-CA36285.

During the course of the administrative investigation into these matters, the Petitioner requested in writing that Objections No. 1, 3, 4, 5, 7, 9 through and including 19, 21 through and including 41, and parts of Objections 2, 6 and 20 be withdrawn and I hereby approve said request for withdrawal.

PROCEDURAL HISTORY

Pursuant to a Stipulated Election Agreement and supplemental Agreement on Voting Eligibility approved by me on October 7, 2005, an election was held on October 28, 2005 among the employees in the following described unit:

All full-time and regular part-time employees performing the work of plumbers, plumbers' helpers, plumbers' apprentices, pipefitters, pipefitters' helpers, pipefitters' apprentices, sprinklerfitters, sprinklerfitters' helpers,

insulators, insulators' helpers, cement finishers, operators, carpenters, CDL truck drivers, non-CDL truck drivers / couriers, refrigeration technicians, HVAC technicians, electrical control technicians, laborers, utility line workers, HVAC helpers, calkers from the Employer's facility located at 754 Progress Drive, Medina, Ohio, the sole facility involved herein who were employed during the payroll period ending Sunday, October 2, 2005, but excluding all office clerical employees, professional employees, guards and supervisors as defined in the Act.

In addition to those employees in the unit who were employed during the payroll period ending October 2, 2005, all employees in the unit who have been employed additionally, all employees in the unit who have been employed for a total of 30 working days or more within the period of 12 months, or who have had some employment in that period and who have also been employed 45 working days or more within the 24 months immediately proceeding the eligibility date for the election and who have not been terminated for cause or quit voluntarily prior to the completion of the last job for which they were employed shall be eligible to vote.

The tally of ballots issued after the election shows that of approximately 51 eligible voters, 43 cast ballots, 15 of which were cast for and 21 against the Petitioner. There were seven challenged ballots, a number sufficient to affect the outcome of the election.¹

Thereafter, the Petitioner filed timely Objections To Election, a copy of which was duly served upon the Employer.²

THE OBJECTIONS

On October 28, 2005 a charge was filed by the Petitioner in Case No. 8-CA-36199. On December 15, 2005 the Petitioner filed a charge in Case No. 8-CA-36285. The Regional Director issued an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing on January 31, 2006 alleging certain violations of Section 8(a)(3) and (1) of the Act. These cases are presently scheduled for hearing on April 3, 2006.

Since the gravamen of portions of the Petitioner's Objections Nos. 2, 6, 20 and all of Objection No. 8 are coextensive with and identical to certain of the allegations set forth in the Consolidated Complaint in Case Nos. 8-CA-36199 and 8-CA-36285, I shall order that these objections be set for hearing and that said hearing be consolidated with the unfair labor practice proceeding to be conducted before an Administrative Law Judge.

¹ On this date, I have issued a separate Report on Challenged Ballots resolving the challenged ballot issues and making recommendations to the Board.

² A copy of the Petitioner's Objections is attached. The petition was filed on September 19, 2005. I have considered only conduct occurring during the critical period, which begins on and includes the date of the filing of the petition and extends through the election. **The Ideal Electric and Manufacturing Co.**, 134 NLRB 1275 (1961).

OBJECTION No. 2 alleges that the Employer interrogated employees Kevin Willis and David Liggett about their union affiliation and activities.³ The evidence in support of the portions of this Objection set for hearing is coextensive with the allegation in paragraph 10(C) of the Consolidated Complaint in Case Nos. 8-CA-36199 and 8-CA-36285.

OBJECTION No. 6 alleges that the Employer discriminated against Kevin Willis by laying him off because of his union activities.⁴ The evidence in support of the portion of this Objection set for hearing is coextensive with the allegation in paragraph 14 of the Consolidated Complaint in Case Nos. 8-CA-36199 and 8-CA-36285.

OBJECTION No. 8 alleges that the Employer bribed employees Mike Wagner and others to vote “yes” in the election by offering to pay them to vote. The evidence in support of this Objection is coextensive with the allegation in paragraph 11 of the Consolidated Complaint in Case Nos. 8-CA-36199 and 8-CA-36285.

OBJECTION No. 20 alleges, in part, that the Employer intimidated and coerced its employee and known union supporter David Liggett, by harassing him and threatening to lay him off and actually laying him off for several days.⁵ The evidence in support of the portions of this Objection set for hearing is coextensive with the allegations in paragraphs 10(A), 10(B) and 15 of the Consolidated Complaint in Case Nos. 8-CA-36199 and 8-CA-36285.

Since the evidence submitted in support of the above-noted Objections is co-extensive with the allegations of the Consolidated Complaint in Case Nos. 8-CA-36199 and 8-CA-36285, I shall order that these Objections be set for hearing and that said hearing be consolidated with the unfair labor practice proceeding to be conducted before an administrative law judge.

CONCLUSIONS

I have approved the Petitioner’s request to withdraw its Objections Nos. 1, 2 (parts only), 3-5, 6 (parts only), 7, 9-19, 20 (parts only) and 21-41.

I conclude that the remaining portions of the Petitioner’s Objection Nos. 2, 6 and 20, as well as all of Objection No. 8, raise issues of fact and credibility which cannot be resolved in an *ex parte* proceeding. Accordingly, I have ordered those Objections to be resolved at a hearing before an Administrative Law Judge. I further order that such hearing be consolidated with the unfair labor practice hearing in Case Nos. 8-CA-36199 and 8-CA-36285.

ORDER

IT IS HEREBY ORDERED that Objection Nos. 2, 6 and 20, as well as all of Objection No. 8, be resolved at a hearing before a duly designated Administrative Law Judge.

³ The Petitioner requested, in writing, withdrawal of the remaining portions of Objection No. 2, *supra*. ⁴ The Petitioner requested, in writing, withdrawal of the remaining portions of Objection No. 6, *supra*.

⁵ The Petitioner requested, in writing, withdrawal of the remaining portions of Objection No. 20, *supra*.

It having been charged in Case Nos. 8-CA-36199 and 8-CA-36285 by the Plumbers and Pipefitters Local 219, a/w United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, that Steingass Mechanical Contracting, Inc., has engaged in, and is engaging in, unfair labor practices affecting commerce as set forth and defined by the National Labor Relations Act, as amended, 29 U.S.C. Section 15 *et. seq.*, and a Consolidated Complaint and Notice of Hearing having issued on January 31, 2006, the matters contained herein have been scheduled for a hearing before an Administrative Law Judge of the Board commencing on the 3rd day of April 2006 and on consecutive days thereafter until completed, at 10:00 a.m., in a hearing room of the National Labor Relations Board, 1695 AJC Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio.

IT IS FURTHER ORDERED, pursuant to Section 102.33 and 102.72 of the Board's Rules and Regulations, Series 8, as amended, that Case No. 8-RC-16759 be consolidated for hearing with Case Nos. 8-CA-36199 and 8-CA-36285, at the same time and place and they hereby are consolidated for purposes of hearing before an Administrative Law Judge. Form NLRB-4348 is attached.

WHEREFORE, the General Counsel of the National Labor Relations Board, on behalf of the Board, has caused the foregoing Order Consolidating Cases to be signed and issued by the Acting Regional Director of Region 8 on this 27th day of February 2006.

/s/ Paul C. Lund

Paul C. Lund, Acting Regional Director
National Labor Relations Board Region 8

Attachment